

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Hena Zaman	Team: Team # 2	CCRB Case #: 200601534	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 02/04/2006 1:30 PM	Location of Incident: Beach 45th Street and in front of the 101 Precinct	Precinct: 101	18 Mo. SOL 8/4/2007	EO SOL 8/4/2007	
Date/Time CV Reported Mon, 02/06/2006 10:04 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 02/06/2006 10:04 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM John Florio	29396	930165	101 PCT
2. POM Matthew Handelsman	12644	932771	101 PCT
3. SGT Carlos Fabara	01279	922317	101 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Christophe Gargano	16590	933650	101 PCT
2. POM Nicklas Cortes	27099	933714	101 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Carlos Fabara	Abuse: Sergeant Carlos Fabara stopped and questioned § 87(2)(b)	
B.POM John Florio	Abuse: Police Officer John Florio searched § 87(2)(b)	
C.POM Matthew Handelsman	Force: Police Officer Matthew Handelsman used physical force against § 87(2)(b) on Beach 45th Street.	
D.POM John Florio	Force: Police Officer John Florio used physical force against § 87(2)(b) on Beach 45th Street.	
E.SGT Carlos Fabara	Force: Sergeant Carlos Fabara used physical force against § 87(2)(b) at Beach 45th Street.	
F.SGT Carlos Fabara	Force: Sergeant Carlos Fabara used physical force against § 87(2)(b) at the 101 Precinct.	
G.POM Matthew Handelsman	Abuse: Police Officer Matthew Handelsman did not obtain medical treatment for § 87(2)(b)	
H.SGT Carlos Fabara	Abuse: Sergeant Carlos Fabara did not obtain medical treatment for § 87(2)(b)	
I.POM John Florio	Abuse: Police Officer John Florio did not obtain medical treatment for § 87(2)(b)	

Synopsis

On February 4, 2006, § 87(2)(b) was walking on Beach 45th Street at which time Sgt. Carlos Fabara approached him and asked him if he had any weapons on him (allegation A). PO John Florio and PO Matthew Handelsman then exited the vehicle and surrounded § 87(2)(b). At this point PO Florio frisked and searched § 87(2)(b) and at which point all three officers slammed him against their vehicle (allegations B, C, D and E). The officers called for an additional unit to transport § 87(2)(b) to the stationhouse. PO Cortes and PO Gargano responded and § 87(2)(b) claimed that the officers pushed him into the vehicle at which point his head hit the roof of the car. § 87(2)(b) was then transported to the 101 Precinct and claimed that Sgt. Fabara slammed his head against the wall (allegation F). § 87(2)(b) expressed that he wanted to see a doctor but Sgt. Fabara, PO Florio and PO Handelsman refused to obtain medical attention for him (allegations G, H, I).

§ 87(2)(g)

Summary of Complaint

On February 6, 2006, § 87(2)(b) called the CCRB and filed a complaint regarding an incident that took place on February 4, 2006 (enc.5a-b). § 87(2)(b) was interviewed at the CCRB on February 21, 2006 (enc.6a-c). § 87(2)(b) stated that on February 4, 2006 at approximately 1:30PM, he was walking to the store on Beach 45th Street, § 87(2)(b). § 87(2)(b) stated that during this time, he did not make any stops and did not speak to anyone. § 87(2)(b) was wearing a black hooded sweatshirt which covered his waistband and pants at the time of the incident. § 87(2)(b) was carrying a wallet in his left rear pocket and had a set of keys in his front right or left pocket. At this point, an unmarked black impala pulled (driving towards him) up next to him alongside the curb. PO1 (identified as Sgt. Fabara during the CCRB investigation) exited the vehicle and approached him. PO1 asked § 87(2)(b) if he had any weapons on him. § 87(2)(b) asked Sgt. Fabara for his badge, which he displayed upon his request (#1179). § 87(2)(b) put his hands up in the air and told the officers that he did not have any weapons or drugs on him. At this point PO2 (identified as PO Florio during the CCRB investigation) and PO3 (identified as PO Handelsman during the CCRB investigation) exited the vehicle and surrounded § 87(2)(b). PO Florio, who was behind § 87(2)(b) proceeded to frisk his entire body and also searched his pockets. During this process, PO Florio also touched § 87(2)(b)'s "private parts" for a brief moment. § 87(2)(b) told PO Florio that he couldn't do that at which time all three officers slammed him forward against the trunk of the impala. § 87(2)(b) requested that the officer not put the handcuffs on too tight, explaining that he had a broken wrist in 2001. The officers disregarded his request and placed the cuffs on tightly.

At this point, Sgt. Fabara and PO Florio both had § 87(2)(b) on the car and elevated his arms over his head as he was rearcuffed and when § 87(2)(b) asked them to stop, they told him to "shut up." § 87(2)(b) started screaming for help and they continued to tell him to shut up. No one intervened in the situation. At this point Sgt. Fabara continuously raised § 87(2)(b)'s arms in the air for the next 25 minutes, as he was rear cuffed. PO4 and PO5 (identified as PO Cortes and PO Gargano during the CCRB investigation) arrived in a marked patrol car. § 87(2)(b) who is 6'8ft tall, was unable to fit in the car. As the initial officers pushed § 87(2)(b) into the car, his head hit the roof of the car, which caused him to sustain an "indent" on his forehead. The officers then tried to place him into the car backwards, but he still didn't fit. § 87(2)(b) tried to get into the car sideways at which point an officer went to the opposite door and succeeded in getting § 87(2)(b) into the car by pulling the hood of his sweatshirt. § 87(2)(b) was taken to the stationhouse and as he walked up the steps to the stationhouse, he slipped and fell since it was raining. PO1 picked § 87(2)(b) up and slammed his head (left temple) into the wall. While in the holding cell, § 87(2)(b) requested that they take the cuffs off but the officers told him that if he didn't calm

down, they wouldn't take them off but they eventually took them off. § 87(2)(b) showed his wrists to Sgt. Fabara, PO Florio and PO Handelsman and expressed that he wanted to go to the hospital. The officers told him that he would be put through the system if he wanted to go to the hospital. PO Florio issued him a summons for § 87(2)(b) and he was then released. Immediately after his release, § 87(2)(b) went to § 87(2)(b) where X-rays were taken. § 87(2)(b) stated that to date, his hands are still numb and his membrane and shoulders are sore.

Results of Investigation

PO Matthew Handelsman (enc.8a-b)

PO Matthew Handelsman was interviewed at the CCRB on July 25, 2006. PO Handelsman stated that on February 4, 2006 he worked from 9:30AM to 6:05PM and was assigned to the 101 Precinct's Anti-Crime Unit. He was working with PO Florio and Sgt. Fabara. PO Handelsman was dressed in plainclothes and was assigned to an unmarked vehicle. The following is PO Handelsman memo book entry: "1330: Male stopped B. 43+ BCD. 1 under in regards."

PO Handelsman stated that he was driving westbound on Beach Channel Drive and observed two males § 87(2)(b) and an unidentified male) fighting in the middle of the street. PO Handelsman could not recall where he and his partners were situated in the vehicle. § 87(2)(b) and the unidentified male were fighting both verbally and physically ("pushing and shoving") and were not using any weapons, but § 87(2)(b) was holding a glass Snapple bottle in his hands. PO Handelsman described § 87(2)(b) as being "a very large gentleman" and estimated his height at 6'10. PO Handelsman, PO Florio, and Sgt. Fabara exited the vehicle and approached § 87(2)(b). PO Handelsman stated that he had his shield around his neck and identified himself as a police officer upon the approach. PO Florio and Sgt. Fabara were also wearing their shields during this time. The other male that was involved in the altercation began to walk away. The officers instructed him to stop but he ignored them. PO Handelsman stated that because of § 87(2)(b)'s size and because he was very irate, all three officers remained at the location and did not go after the unidentified male. The officers began speaking to § 87(2)(b) and requested his identification. They stated that they were going to write § 87(2)(b) a summons (for § 87(2)(b)). § 87(2)(b) refused to produce identification and responded, "Fuck you, I'm not giving you shit. You're not writing me summonses. I'll fucking kill you guys." The officers got § 87(2)(b) to put the bottle down and told him that they needed his identification in order to write him a summons. Again, § 87(2)(b) replied, "Fuck you, I'm going to kill you guys. Don't touch me. Don't put your hands on me." PO Handelsman recalled that § 87(2)(b) was non-compliant for the duration of the incident.

The officers made the unanimous decision to place § 87(2)(b) under arrest. PO Handelsman could not recall which officer was able to put § 87(2)(b) in handcuffs, but stated that all three assisted in the process because of § 87(2)(b)'s size and "irate" demeanor. § 87(2)(b) was also flailing his arms and kicking his legs, attempting to avoid being handcuffed. PO Handelsman stated that § 87(2)(b)'s arms were never lifted up over his head while he was rear-cuffed. No officers were injured during this process. PO Handelsman did not recall § 87(2)(b) complaining of any injuries to his wrists. § 87(2)(b) was subsequently frisked, but PO Handelsman could not record who performed the frisk. § 87(2)(b) was not searched at this time. At this point, § 87(2)(b) was still belligerent. One of the officers called for a marked car (because the unmarked car did not have a cage and was therefore not safe to transport § 87(2)(b) and placed § 87(2)(b) in the back of that car. There was no struggle when placing § 87(2)(b) in the car and PO Handelsman denied that § 87(2)(b) was forcefully thrown up against the car. PO Handelsman also denied § 87(2)(b)'s allegation that his head hit the roof the patrol car and added that the officers were careful when placing him in the vehicle. At that point, PO Handelsman did not recall observing any injuries to § 87(2)(b) nor did he recall § 87(2)(b) complaining of injury. PO Handelsman stated that the sector car transported § 87(2)(b) to the 101 Precinct but could not recall the officers who were in that vehicle. The sector officers' involvement in this incident was limited to the transport of § 87(2)(b).

PO Handelsman estimated that the sector car and his vehicle arrived at the stationhouse at approximately the same time, or within a few minutes of one another but did not recall which arrived first. He was present when § 87(2)(b) was escorted into the stationhouse but could not recall which officer had done it. PO Handelsman denied § 87(2)(b)'s statement that he slipped and fell because of the rain and as he was

lifted up, his head hit a wall. He could not recall the weather that day, but he stated that he did not observe § 87(2)(b) fall to the ground at all as he was escorted into the precinct. PO Handelsman denied any use of physical force on § 87(2)(b) inside or outside of the stationhouse.

PO Handelsman stated that he and his partner brought § 87(2)(b) before the desk sergeant but he did not recall who the desk sergeant on duty was. § 87(2)(b) was released with a summons for § 87(2)(b). § 87(2)(b) never expressed that he wanted to go to the hospital and PO Handelsman denied that any officer stated that if § 87(2)(b) went to the hospital he would be put through the system. PO Handelsman could not recall if a UF250 was prepared. When informed that PO Florio prepared a 250 and had indicated that § 87(2)(b) was making “furtive movements,” PO Handelsman stated that § 87(2)(b) had been touching the right side of his waistband during the fight as well as while the officers were speaking to him. However, PO Handelsman did not observe any bulges. PO Handelsman also elaborated on PO Florio’s description of § 87(2)(b)’s “inappropriate attire” and stated that § 87(2)(b) was wearing a long, baggy jacket that was covering his waistband area.

PO John Florio (enc.11a-b)

PO John Florio was interviewed at the CCRB on September 21, 2006. On February 4, 2006, PO Florio worked in plainclothes from 9:30AM to 6:05PM. PO Florio worked with Sgt. Fabara and PO Handelsman and was assigned to a gray unmarked Impala. The following is PO Florio’s memo book entry regarding the incident: “1415: 1 C Summons issued for § 87(2)(b) from Bch 45 and BCD back to 101 PCT.”

PO Florio stated that on February 4, 2006, at approximately 2:15PM, he and his partners observed two people, § 87(2)(b) and an unidentified males fighting in the middle of the street, blocking traffic. PO Florio recalled that it was raining on that day and he was the operator of the vehicle. PO Florio honked the horn at which point the individuals placed their attention on the officers. PO Florio was unable to establish if the males were involved in a physical altercation but affirmed that they were yelling at each other. PO Florio described § 87(2)(b) as black male who was approximately 7’0ft tall and 250-300 pounds. PO Florio also recalled that § 87(2)(b) was carrying a glass bottle. PO Florio could not recall what § 87(2)(b) was wearing and was unable to describe the unidentified male. PO Florio and his partners exited their vehicles and approached the males since they were still in the street. The officers (could not recall specifically who) asked § 87(2)(b) to “Come over here for a second” at which point § 87(2)(b) said, “You’re not stopping me, If you want to stop me you’re going to have to shoot me.” He also said, “If you’re going to come near me, I’m going to kill you.” § 87(2)(b) was swinging the glass bottle while yelling at the officers but never attempted to use it as a weapon against the officers. The unidentified male slowly walked away at some point and since the officers’ attention was focused on § 87(2)(b) because of his behavior, they did not bother to stop the unidentified male. The officers had no interaction with this male.

One of the officers asked § 87(2)(b) for his ID numerous times but he failed to produce it and continued to inch away from the officers. By now, everyone had reached the sidewalk and the officers made a decision to arrest § 87(2)(b) for § 87(2)(b). The officers tried to handcuff § 87(2)(b) who then began flailing his arms and kicking his legs. § 87(2)(b) repeatedly yelled, “If you’re going to stop me, you’re going to have to shoot me.” PO Florio recalled that all three officers attempted to place § 87(2)(b) in handcuffs but he still continued to be difficult. All three officers eventually handcuffed § 87(2)(b) after they successfully gained control of his arms. Even when § 87(2)(b) was restrained, he was still fidgeting and squirming. The officers put through a radio transmission for a caged car to transport § 87(2)(b) to the stationhouse. PO Florio stated that a crowd did not gather and no one tried to intervene in the situation. While waiting for the RMP to arrive, § 87(2)(b) was pushed up, not thrown, against the RMP in order to keep him in place.

The RMP arrived shortly after and unknown officers were able to place § 87(2)(b) into the RMP. PO Florio did not know who the responding officers were and could not affirm if it was PO Cortes or PO Gargano. PO Florio recalled that there was a struggle when placing § 87(2)(b) into the car. PO Florio denied that § 87(2)(b)’s head was slammed against the car. The RMP transported § 87(2)(b) to the stationhouse and PO Florio and his team followed them.

PO Florio did not know who escorted § 87(2)(b) into the precinct but he denied that § 87(2)(b) fell and that an officer slammed his head against the wall of the stationhouse. § 87(2)(b) did not complain of any injuries nor did he have any visible injuries. § 87(2)(b) did not request medical attention and PO Florio did not know if any of the officers, including himself, offered § 87(2)(b) medical attention. PO Florio denied § 87(2)(b)'s claims that an officer told him that he would be "put through the system if he wanted to go to the hospital." PO Florio added that obtaining medical treatment for a defendant does not affect the outcome of the arrest. PO Florio did not recognize § 87(2)(b) from prior interactions. At the precinct, PO Florio issued § 87(2)(b) a summons for § 87(2)(b) (sub section 1). PO Florio explained that § 87(2)(b) had calmed down at the stationhouse.

The UF 250 was displayed to PO Florio. He stated that § 87(2)(b) was suspected of a felony because of the way he was fighting and acting. PO Florio added that there are a lot of guns, shootings and gang assaults in the vicinity of the incident location therefore § 87(2)(b) was suspected of the above offenses. PO Florio stated that he did not see § 87(2)(b) reach for his waistband but did state that his arms were "all over the place." PO Florio could not recall if § 87(2)(b) had any bulges. PO Florio stated that § 87(2)(b) was only frisked and searched subsequent to his arrest but he did not know who did this. PO Florio was asked to elaborate what he meant by "hard object" as a basis for the search and he stated that he did not recall. When asked about the inappropriate attire section that was marked on the UF250, PO Florio did not have an independent recollection of what § 87(2)(b) was wearing.

Sgt. Carlos Fabara (enc.9a-b)

Sergeant Carlos Fabara was interviewed at the CCRB on August 10, 2006. On February 4, 2006, Sgt. Fabara worked from 9:26AM to 6:10PM. Sgt. Fabara was working in plainclothes with PO Handelsman. Sgt. Fabara was assigned to an unmarked vehicle. Sgt. Fabara did not have any memo book entries regarding the incident.

Sgt. Fabara stated that he was situated in his vehicle when he observed § 87(2)(b) fighting with an unidentified male in the middle of the street. Sgt. Fabara recalled that PO Handelsman was his partner but could not affirm if PO Florio was his other partner. Sgt. Fabara explained that § 87(2)(b) and the male were "tussling" and throwing punches at each other while § 87(2)(b) was screaming. Sgt. Fabara could not recall what § 87(2)(b) was wearing and he did not recognize him from prior interactions. The officers exited their vehicle and approached the males at which point the unidentified male began to walk away. Sgt. Fabara did not instruct the unidentified male to stop, § 87(2)(b) whom Sgt. Fabara described as being 7'0 ft. tall, was yelling and causing public alarm. During this time, Sgt. Fabara did not observe any injuries on § 87(2)(b) and could not recall if he was holding anything in his hands. Sgt. Fabara stated that because § 87(2)(b) was very irate, all three officers remained at the location and did not go after the unidentified male. Sgt. Fabara added that § 87(2)(b) gave him the impression that he was looking to be violent against everyone he encountered. The unidentified male never came back to the location.

At this point, § 87(2)(b) threatened to "fucking kill" the officers and was cursing at them. § 87(2)(b) proceeded to make additional comments about the male he was involved in the fight with and was also threatening to harm the male. The officers then made a unanimous decision to place § 87(2)(b) under arrest for § 87(2)(b). Sgt. Fabara explained that during the arrest, § 87(2)(b) was not violently resisting, but he was "tensing up" and moving around. Sgt. Fabara was unable to recall who handcuffed § 87(2)(b) but stated that physical force was not used when placing him in handcuffs. § 87(2)(b) was searched subsequent to the arrest but Sgt. Fabara was unable to affirm who searched § 87(2)(b). Sgt. Fabara denied that § 87(2)(b) was frisked or searched prior to the arrest. Once § 87(2)(b) was restrained, he was still squirming. One of the officers put through a radio transmission for a unit to respond in order to transport § 87(2)(b) to the stationhouse. Sgt. Fabara could not affirm if it was PO Cortes or PO Gargano who responded to the call and also could not recall when the RMP responded. Sgt. Fabara did not recall who placed § 87(2)(b) in the RMP and stated that he did not recall that the officers had difficulty placing § 87(2)(b) into the vehicle. Sgt. Fabara denied § 87(2)(b)'s claims that an officer slammed his head against the vehicle and that an officer raised his hands behind his back as he was rearcuffed. Sgt. Fabara also denied that officers slammed § 87(2)(b)'s head against the vehicle. § 87(2)(b) did not try to strike any of the officers.

Sgt. Fabara stated that § 87(2)(b) did not express that he had injuries nor did he observe any injuries. Sgt. Fabara stated that § 87(2)(b) was screaming throughout the incident but he was not too sure if § 87(2)(b) ever calmed down. Both vehicles went to the stationhouse. Sgt. Fabara did not recall who escorted § 87(2)(b) into the stationhouse and determined that he did not do so. Sgt. Fabara did not have an independent recollection of § 87(2)(b) falling on the ground in front of the stationhouse and stated that the officers did not slam his head against the wall. Sgt. Fabara did not recall having any interaction with § 87(2)(b) at the stationhouse and stated that § 87(2)(b) did not request medical attention. Sgt. Fabara stated that he did not hear an officer tell § 87(2)(b) that if he wanted medical attention, then he would be processed. Sgt. Fabara explained that providing someone with medical attention does not affect the outcome of the defendant's arrest. Sgt. Fabara could not recall when or who issued the summons for § 87(2)(b).

Upon reviewing the UF250 that was prepared by PO Florio, Sgt. Fabara still did not have an independent recollection of PO Florio being at the location. Sgt. Fabara confirmed that he reviewed the stop and frisk report once he saw his name on it. When asked about the specific information regarding the information noted on the report, Sgt. Fabara expressed that he only reviewed the report to make sure it was completely filled out and did not assist in preparing it. Sgt. Fabara stated that he cannot attest to the information noted on the 250 and only recognized that he signed it and was unable to affirm the information noted on the report as he did not recall the details.

PO Christopher Gargano (enc.15a-b) and PO Nicklas Cortes (enc.13a-b)

PO Christopher Gargano and PO Nicklas Cortes were interviewed at the CCRB on October 3, 2006. On February 4, 2006, PO Gargano and PO Cortes were assigned to Sector CD and worked in uniform. PO Gargano and PO Cortes were assigned to RMP# 2516. The following is PO Gargano's memo book entry regarding the incident: "1415: Transport 1 male to 101 Pct. 1427: Male out of auto." The following is PO Cortes' memo book entry regarding the incident: " 1415: transport to 101 one male. 1427: Male out of auto."

PO Gargano and PO Cortes did not have an independent recollection of this incident and did not recall interacting with the anti crime team regarding an arrest for disorderly conduct. Details regarding the incident were provided to both officers but they were unable to recall this particular incident.

Police Documents

The 101 Precinct Tour 2 roll call revealed that Sgt. Fabara was the anti crime supervisor and that PO Handelsman and PO Florio were assigned to anti crime. Roll call also indicated that PO Cortes and PO Gargano were assigned to Sector CD (enc.21a-f). The command log revealed that § 87(2)(b) was brought into the stationhouse at 2:20PM and at 3:00PM he was issued a summons (enc.22a). It has been noted that § 87(2)(b) was in "good condition." Summons number § 87(2)(b) was issued by PO Florio to § 87(2)(b) for § 87(2)(b) (enc.20a-b). The stop and frisk log indicated that that PO Florio prepared a UF 250 for § 87(2)(b) (enc.18a). The UF250 indicated that § 87(2)(b) was suspected of a felony and was stopped because of his furtive movements and because his actions were indicative of engaging in violent crimes. It has also been noted that § 87(2)(b) was frisked because he wearing inappropriate attire-possibly concealing a weapon and because of his furtive movements. The basis for a search was a "hard object." (enc.19a-b) Sprint records revealed that Sector CD transported one male to the stationhouse at 2:15PM (17a-b).

CCRB Histories

§ 87(2)(b) (enc.4a)

To date, § 87(2)(b) has filed one additional CCRB complaint on behalf of his son, § 87(2)(b)

Sgt. Carlos Fabara (enc.3a-d)

Sgt. Fabara, in his 8th year on the force, has six substantiated allegations in his CCRB history. In case number 200508693, it was recommended that Sgt. Fabara receive charges for four abuse of authority allegations. In case number 200512992, it was recommended that he receive charges for two abuse of authority allegations. The NYPD disposition is not available at this time. There are currently 8 open cases in which Sgt. Fabara is a subject officer.

PO John Florio (enc.2a)

PO Florio, in his 4th year on the force, has two substantiated allegations in his CCRB history where he received instructions for one of the allegations. There are currently three open cases in which PO Florio is a subject officer.

PO Matthew Handelsman (enc.1a)

PO Handelsman, in his 3rd year on the force, does not have any substantiated allegations in his CCRB history. There are currently four open cases in which PO Handelsman is a subject officer.

Summons Disposition and Criminal Conviction History

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Medical Records

The medical records from § 87(2)(b) noted § 87(2)(b)'s chief complaint as "neck and left shoulder pain." § 87(2)(b) stated that he was "roughed up" by police. He also complained of pain to his wrists because of the handcuffs. The diagnosis has been noted as soft tissue injury and shoulder/neck pain (enc.16a-f).

Conclusions and Recommendations

Officer Identification

§ 87(2)(b) stated that PO1's badge number was 1179. CTS revealed that Sgt. Fabara's badge number is 1279. § 87(2)(g) § 87(2)(b) stated that PO2 was the officer who issued him a summons for § 87(2)(b), which was prepared by PO Florio. § 87(2)(g) Sprint records assisted in identifying PO Cortes and PO Gargano as the transporting officers who were assigned to Sector CD.

Undisputed Facts

It is not in dispute that Sgt. Fabara, PO Florio and PO Handelsman stopped § 87(2)(b) and then subsequently arrested him for disorderly conduct. It is also not in dispute that PO Florio issued § 87(2)(b) a summons for § 87(2)(b). § 87(2)(g)

Credibility

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) also stated that the officers, as he was rearcuffed, raised his arms up in the air for 25 minutes while back up arrived. Sprint records revealed that a caged unit was requested at 2:09PM and arrived at 2:15PM. § 87(2)(g)

Allegation A: Sergeant Carlos Fabara stopped and questioned § 87(2)(b)

§ 87(2)(b) alleged that Sgt. Fabara approached him while he was walking to the store. All of the officers established that § 87(2)(b) was involved in an altercation in the middle of the street which prompted the officers to approach him. § 87(2)(g)

Allegation B: Police Officer John Florio searched § 87(2)(b)

§ 87(2)(b) alleged that he was searched prior to being handcuffed. PO Florio and his partners established that § 87(2)(b) was frisked and searched incidental to the arrest. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Allegation C: Police Officer Matthew Handelsman used physical force against § 87(2)(b) on Beach 45th Street.

Allegation D: Police Officer John Florio used physical force against § 87(2)(b) on Beach 45th Street.

Allegation E: Sergeant Carlos Fabara used physical force against § 87(2)(b) on Beach 45th Street.

§ 87(2)(b) alleged that the officers threw him against their vehicle and as they were trying to place him in the RMP, his head hit the roof of the car. The officers established that § 87(2)(b) was squirming, remained uncooperative and refused to be handcuffed. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation F: Sergeant Carlos Fabara used physical force against § 87(2)(b) at the 101 Precinct.

§ 87(2)(b) alleged that after he fell outside of the precinct, Sgt. Fabara picked him up and slammed his head against the wall in front of the stationhouse. § 87(2)(b) expressed to the CCRB that his “membrane” was sore as a result of this but he did not report this injury at the hospital. The officers interviewed in connection with this case denied § 87(2)(b) s claims. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Allegation G: Police Officer Matthew Handelsman did not obtain medical treatment for § 87(2)(b)

Allegation H: Sergeant Carlos Fabara did not obtain medical treatment for § 87(2)(b)

Allegation I: Police Officer John Florio did not obtain medical treatment for § 87(2)(b)

§ 87(2)(b) alleged that at the stationhouse, he asked the officers to obtain medical attention for him. The command log noted that when § 87(2)(b) was released with a summons, he was in “good condition.” The officers established that § 87(2)(b) did not request medical attention and had he done so, they would have provided it to him since it would not affect the outcome of his arrest. The officers did not hear § 87(2)(b) complain of any injuries nor did they observe any visible injuries. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: